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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,809	03/05/2002	Cordell R. Ratzlaff	8360.1587-00	2977
826	7590	07/31/2006	EXAMINER CHOI, PETER H	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			ART UNIT 3623	PAPER NUMBER

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,809

Applicant(s)

RATZLAFF ET AL.

Examiner

Peter Choi

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/5/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a first office action upon examination of application number 10/087809. Claims 1-16 are pending in the application and have been examined on the merits discussed below.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference number 226 in Figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 11 is objected to because of the following informalities: the phrase "chronologically relationship" should read "chronological relationship". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 16 states that the claim is dependent on claim 2. Claim 2 is a method claim, whereas claim 16 is a graphical user interface. Claims cannot be dependent on claims of other statutory classes of invention. Claims dependent on one another must be of the same statutory class of invention (method claims depend on other method claims, apparatus claims depend on other apparatus claims, system claims depend on other system claims, etc.). Apparatus claims cannot be dependent on

method claims. Appropriate correction is required. For examination purposes, it will be assumed that claim 16 is dependent on claim 12 instead of claim 2, as currently written.

The preamble of the claims recite a graphical user interface, which is not within the statutory class of invention. If these claims are directed towards an apparatus, there are no structural elements that would render the claims as an apparatus. The claimed interface views are not functional limitations, as they do not define a capability or purpose that is served by the recited view. Mere graphical representation of data is non-functional descriptive material, as it does not affect functionality of the claimed invention.

It is unclear whether the claims are directed towards the view (i.e., the graphical layout and representation of data) of the interface, or software means presenting the interface views, or computer-executable code that yields the claimed interface views when executed on a computer readable medium.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 12-16 recite non-functional descriptive material per se. Non-functional descriptive material per se is an abstract idea that fails to produce a useful, concrete, or tangible result. Non-functional descriptive material is not made statutory even if in combination with a computer-readable medium so long as no useful, concrete or tangible result is produced. It is unclear which statutory class the claimed graphical user interface belongs to because the claim limitations merely recite non-functional descriptive material per se, which is non-statutory.

Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See *Arrhythmia*, 958 F.2d at 1057, 22 USPQ2d at 1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. For example, a claim directed to a word processing file stored on a disk may satisfy the utility requirement of 35 U.S.C. 101 since the information stored may have some “real world” value. However, the mere fact that the claim may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved under the practical application requirement. The claimed invention as a whole must produce a “useful, concrete and tangible” result to have a practical application.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Forbes et al. (U.S Patent #5,659,768).

As per claim 1, Forbes et al. teaches a method for designating dates in an interactive travel calendar comprising:

(a) providing an interface for users to specify event ranges (**events to be scheduled are input by a user into the invention's data base using a variety of readily available input devices; manipulation of the information is begun by selecting data by pointing**), each event range having a start date that chronologically precedes an end date (**user specifies and inputs the start time of the event and an end time to the event**) [Column 3, lines 50-63, Column 8, lines 30-33, Figures 1-8];

(b) receiving a signal designating a first date associated with an event (**user specifies and inputs the start time of the event and an end time to the event**) [Column 8, lines 30-33];

(c) receiving a signal designating a second date associated with an event **(user specifies and inputs the start time of the event and an end time to the event)** [Column 8, lines 30-33];

(d) setting the first date or the second date as a start date for an event range based upon a chronological relationship between the first date and the second date, with the start date being the date earlier chronologically among the first and second date and the end date being the date chronologically later among the first and second date. **(It is understood that when two dates are associated with an event, one date occurs earlier in time than the other; thus, the earlier occurring date is the “start” date, and the date chronologically occurring after the “start” date is the “end” date, as taught by Forbes et al.); and**

(e) presenting information reflecting the event range **(By specifying a timescale and a starting date for the display, the user would cause the invention to display a series of timebars uniquely identified as representing particular events over a scrollable grid with time increments over the calendar period specified; Display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled)** [Column 8, lines 34-38, 61-64, Figures 1-8].

As per claim 2, Forbes et al. teaches the method of claim 1, further comprising:

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(a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-41, Column 8, lines 41-43]; and

(b) setting the new date as a new end date based on a determination that the new date chronologically succeeds the end date for the event range to form a new event range **(placement of the pointer on the right end of a timebar communicates the intent to change the end time)** [Column 5, lines 43-45, Column 8, lines 44-46].

As per claim 3, Forbes et al. teaches the method of claim 1, further comprising:

(a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-41, Column 8, lines 41-43]; and

(b) setting the new date as a new start date if the new date chronologically precedes the start date for the event range to form a new event range **(placement of the pointer on the left end of a timebar communicates the intent to change the start time)** [Column 5, lines 42-43, Column 8, lines 43-44].

As per claim 4, Forbes et al. teaches the method of claim 1, further comprising:

(a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-46, Column 8, lines 41-43]; and

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(b) setting the new date as a new end date if the new date falls chronologically within the event range, and the start date was selected before the end date, to form a new event range **(a user can textually manipulate the timecells to reflect schedule adjustments)** [Column 5, lines 40-46, Column 6, lines 66-67].

As per claim 5, Forbes et al. teaches the method of claim 1, further comprising:

(a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-41, Column 8, lines 41-43]; and

(b) setting the new date as a new start date based on a determination that the new date falls chronologically within the event range, and the end date was selected before the start date, to form a new event range **(a user can textually manipulate the timecells to reflect schedule adjustments)** [Column 5, lines 40-46, Column 6, lines 66-67].

Claims 6-10 recites limitations already addressed by the rejection of claims 1-5 above; therefore, the same rejection applies.

As per claim 11, Forbes et al. teaches a method for specifying an event range, comprising:

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(a) setting a first date and a second date as a start date and an end date for an event range (**user specifies and inputs the start time of the event and an end time to the event**) [Column 8, lines 30-33];

(b) presenting information reflecting the event range (**By specifying a timescale and a starting date for the display, the user would cause the invention to display a series of timebars uniquely identified as representing particular events over a scrollable grid with time increments over the calendar period specified; Display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled**) [Column 8, lines 34-38, 61-64, Figures 1-8]; and

(c) enabling a user to modify the presented information by selecting a third date (**A user can textually manipulate the timecells to reflect schedule adjustments**), wherein the third date is set as a new start date for the event range when the third date either precedes the set start date of the event range or when the third date falls within the event range (**Placement of the pointer on the left end of a timebar communicates the intent to change the start time**), and the set start date was received before the set end date, and wherein the third date is set as a new end date for the event range when the third date succeeds the set end date of the event range or when the third date falls within the event range and the set end date was received before set start date (**Placement of the pointer on the right end of a timebar communicates the intent to change the end time**) [Column 5, lines 42-45, Column 6, lines 66-67 Column 8, lines 43-46];

(d) setting the first date or the second date as a start date for an event range based upon a chronological relationship between the first date and the second date, with the start date being the date earlier chronologically among the first and second date and the end date being the date chronologically later among the first and second date. **(It is understood that when two dates are associated with an event, one date occurs earlier in time than the other; thus, the earlier occurring date is the “start” date, and the date chronologically occurring after the “start” date is the “end” date, as taught by Forbes et al.);**

As per claim 12, Forbes et al. teaches a graphical user interface for selecting dates in an interactive calendar in a data processing system, the interface comprising:

(a) an initial view including an interface for users to specify event ranges, each event range having a start date that chronologically precedes an end date, wherein upon receiving a signal designating a first date and a second date associated with an event, and wherein the first date or the second date is designated as a start date for an event range based upon a chronological relationship between the first date and the second date, with the one of the first and second date that is chronologically before the other set as the start date, and the other date set as the end date **(user specifies and inputs the start time of the event and an end time to the event)** [Column 8, lines 30-33]; and

(b) a new view including an interface presenting information reflecting the event range **(When the pointing device is dragged over the timebar a gray outline**

of the timebar movies in proportion to the pointing device movement. As the timebar is moved, the table is updated for each time increment of motion. If the timebar is being repositioned, both the start and end times are highlighted and updated continually with each minute of motion. If the timebar is being shortened or lengthened, only the start or the end time is highlighted and updated continually; By specifying a timescale and a starting date for the display, the user would cause the invention to display a series of timebars uniquely identified as representing particular events over a scrollable grid with time increments over the calendar period specified; Display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled) [Column 7, lines 10-19, Column 8, lines 1-8, 34-38, 61-64, Figures 1-8].

Claims 13-16 recite limitations already addressed by the rejection of claims 2-5 (setting new start or end dates for an event) and 12 (interface allowing users to specify event ranges and present information) above; therefore, the same rejection applies.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

DeLorme et al. (U.S Patent #5,948,040) teaches a travel reservation information and planning system. Users can access WHEN? Menus to plan a travel itinerary using a graphical user interface. Trip START and FIISH dates and times may be modified.

Detjen et al. (U.S Patent #5,970,466) teaches a graphical computer system and method for appointment scheduling. Screen displays are displayed on a computer monitor with a plurality of thermometer-style schedules.

Yonemitsu (U.S Patent #6,856,962) teaches a schedule management system. Users input schedule reservations and displays existing schedules based on stored schedule data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PC

July 21, 2006

Peter Choi
Examiner
Art Unit 3623

Susanna Diaz
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